

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION**

The opinion in support of the decision being entered today  
(1) was not written for publication in a law journal and  
(2) is not binding precedent of the Board.

Paper No. 26

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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***Ex parte*** JOSEPH R. GALICIA

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Appeal No. 1998-0561  
Application 08/340,339

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ON BRIEF<sup>1</sup>

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Before THOMAS, FLEMING and BARRY, ***Administrative Patent Judges***.

FLEMING, ***Administrative Patent Judge***.

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<sup>1</sup> Appellant requested an oral hearing in the notice of appeal filed February 6, 1997. We held the oral hearing on April 6, 2000. Appellant was not present at that time.

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### ***DECISION ON APPEAL***

This is a decision on appeal from the final rejection of claims 1 through 7 and 9 through 17. Claims 8 and 18 through 22 stand withdrawn from consideration based upon a restriction requirement made by the Examiner. No claims have been allowed.

The invention relates to rearview mirrors for vehicles. More particularly, the present invention relates to a side rearview mirror arrangement for eliminating a blind spot associated with side rearview mirrors.

Independent claim 1 is reproduced as follows:

1. A mirror assembly for a vehicle comprising:

a first mirror attached externally to the vehicle for providing a side rear view along a side of the vehicle to a driver of the vehicle; and

a second mirror attached internally to the vehicle to a roof-supporting column of the vehicle for providing a blind spot view to the driver, the roof-supporting column supporting a roof of the vehicle,

the first and second mirrors being separately adjustable.

The Examiner relies on the following references:

Hagn et al. (Hagn)	4,439,013	Mar. 27, 1984
Mizuta et al. (Mizuta)	4,727,302	Feb. 23, 1988

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Janowicz	4,728,180	Mar. 1, 1988
Hou	5,007,724	Apr. 16, 1991
Troisdorf <sup>2</sup> 1988 (German Offenlegungsschrift)	3,705,574	Sept. 1,

Claims 1 through 3, 11 and 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hagn in view of Troisdorf. Claims 4 through 6 and 13 through 15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hagn in view of Troisdorf and Mizuta. Claims 7, 16 and 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hagn in view of Troisdorf, Mizuta and Hou. Claims 9 and 10 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hagn in view of Troisdorf and Janowicz.

Rather than reiterate the arguments of Appellant and the Examiner, reference is made to the brief and answer for the respective details thereof.

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<sup>2</sup> A copy of the translation provided by the U.S. Patent and Trademark Office, Translations Branch, May 7, 1996, is included and relied upon for this decision.

**OPINION**

We will not sustain the rejection of claims 1 through 7 and 9 through 17 under 35 U.S.C. § 103.

The Examiner has failed to set forth a ***prima facie*** case. It is the burden of the Examiner to establish why one having ordinary skill in the art would have been led to the claimed invention by the express teachings or suggestions found in the prior art, or by implications contained in such teachings or suggestions. ***In re Sernaker***, 702 F.2d 989, 995, 217 USPQ 1, 6

(Fed. Cir. 1983). "Additionally, when determining obviousness, the claimed invention should be considered as a whole; there is no legally recognizable 'heart' of the invention." ***Para-Ordinance Mfg. v. SGS Importers Int'l, Inc.***, 73 F.3d 1085, 1087, 37 USPQ2d 1237, 1239 (Fed. Cir. 1995), ***cert. denied***, 519 U.S. 822 (1996) ***citing W. L. Gore & Assoc., Inc. v. Garlock***,

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*Inc.*, 721 F.2d 1540, 1548, 220 USPQ 303, 309 (Fed. Cir. 1983),  
***cert. denied***, 469 U.S. 851 (1984).

On page 7 of the brief, Appellant argues that even if Hagn and Troisdorf are combined as suggested, the resulting device is not the claimed invention. In particular, Appellant argues that neither Hagn nor Troisdorf teaches or suggests first and second mirrors such as the first mirror is attached externally to the vehicle and the second mirror is attached internally to the vehicle to a roof-supporting column of the vehicle. On page 8 of the brief, Appellant argues that in regard to claim 1 neither Hagn nor Troisdorf discloses or suggests the claimed second mirror that is attached to a roof-supporting column of the vehicle, with the claimed roof-supporting column supporting the roof of the vehicle.

The Examiner responds to these arguments on page 14 of the answer. The Examiner states that Hagn shows a second mirror 15 that is attached and joined to the vehicle of the roof-supporting column 13 of the vehicle. The Examiner further argues that since the Appellant does not claim any

specific structure or limitation of the roof-supporting column of the vehicle, the roof-supporting column 13 of the vehicle of Hagn would not differ from Appellant's invention.

As pointed out by our reviewing court, we must first determine the scope of the claim. "[T]he name of the game is the claim." ***In re Hiniker Co.***, 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998). Claims will be given their broadest reasonable interpretation consistent with the specification, and limitations appearing in the specification are not to be read into the claims. ***In re Etter***, 756 F.2d 852, 858, 225 USPQ 1, 5, (Fed. Cir.), ***cert. denied***, 474 U.S. 828 (1985).

Appellant's only independent claim, claim 1, recites "a second mirror attached internally to the vehicle to a roof-supporting column of the vehicle for providing a blind spot view to the driver, the roof-supporting column supporting a roof of the vehicle." We note that Appellant shows this feature in Figures 1A through 1C. On page 8 of the specification, Appellant states that the "[m]irror arrangement

10 includes a first mirror 11 attached externally to the left side of the vehicle and a

second internal mirror 12 mounted to the left roof-supporting column 15 of the vehicle." Thus, we find that the scope of claim 1 requires a second mirror attached internally to the vehicle to a roof-supporting column of the vehicle for providing a blind spot view of the driver, the roof-supporting column supporting a roof of the vehicle. We do not agree with the Examiner that we merely can ignore the limitation of the roof-supporting column and that the second mirror is attached internally to the roof-supporting column of the vehicle.

Upon a closer review of Hagn, we fail to find that the second mirror shown as element 16 in Figure 1 is attached to the roof-supporting column. In particular, Hagn teaches in column 2, lines 20 through 22, that the opening 18 is disposed in a dashboard 19, in the region of the door hinge 21. In column 2, lines 6 through 8, Hagn teaches that the side door 11 has a cover 13 that is taken out via the side door fitting

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in the forward zone of the door in connection with the side pane 12.

From these teachings, we find that element 13 is not a roof-supporting column as asserted by the Examiner.

Therefore, we fail to find that Hagn teaches that the second mirror 16 is attached internally to the vehicle to a roof-supporting column of the vehicle for providing a blind side view to the driver,

the roof-supporting column supporting a roof of the vehicle as recited in Appellant's claim 1. Furthermore, we note that the other references relied on by the Examiner do not provide this missing piece.

Therefore, we will not sustain the Examiner's rejection of claims 1 through 7 and 9 through 17 under 35 U.S.C. § 103. Accordingly, the Examiner's decision is reversed.

***REVERSED***



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	JAMES D. THOMAS	)	
	Administrative Patent Judge	)	
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		)	BOARD OF
PATENT			
	MICHAEL R. FLEMING	)	APPEALS AND
	Administrative Patent Judge	)	
INTERFERENCES			
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	LANCE LEONARD BARRY	)	
	Administrative Patent Judge	)	

MRF:psb

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